



House of Representatives

General Assembly

File No. 594

February Session, 2016

Substitute House Bill No. 5494

House of Representatives, April 13, 2016

The Committee on Finance, Revenue and Bonding reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE SALES TAX ON SERVICES RENDERED
BETWEEN CERTAIN PARENT COMPANIES AND SUBSIDIARIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (62) of section 12-412 of the 2016 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2016*):

4 (62) (A) Sales of any of the services enumerated in subparagraph (I),
5 (K) or (L) of subdivision (2) of subsection (a) of section 12-407 that are
6 rendered for a business entity affiliated with the business entity
7 rendering such service in such manner that (i) either business entity in
8 such transaction owns a controlling interest in the other business
9 entity, or (ii) a controlling interest in each business entity in such
10 transaction is owned by the same person or persons or business entity
11 or business entities.

12 (B) For purposes of this subdivision, (i) "business entity" means a

13 corporation, trust, estate, partnership, limited partnership, limited
14 liability partnership, limited liability company, single member limited
15 liability company, sole proprietorship, nonstock corporation or a
16 federally-recognized Indian tribe; (ii) "controlling interest" means, in
17 the case of a business entity that is a corporation, ownership of stock
18 possessing [one hundred] at least eighty per cent of the total combined
19 voting power of all classes of stock entitled to vote or [one hundred] at
20 least eighty per cent of the total value of shares of all classes of stock of
21 such corporation; in the case of a business entity that is a trust or
22 estate, ownership of a beneficial interest of one hundred per cent in
23 such trust or estate; in the case of a business entity that is a
24 partnership, limited partnership or limited liability partnership,
25 ownership of [one hundred] at least eighty per cent of the profits
26 interest or capital interest in such partnership, limited partnership or
27 limited liability partnership; in the case of a limited liability company
28 with more than one member, ownership of [one hundred] at least
29 eighty per cent of the profits interest, capital interest or membership
30 interests in such limited liability company; in the case of a business
31 entity that is a sole proprietorship or single member limited liability
32 company, ownership of such sole proprietorship or single member
33 limited liability company; in the case of a business entity that is a
34 nonstock corporation with voting members, control of one hundred
35 per cent of all voting membership interests in such corporation; and in
36 the case of a business entity that is a nonstock corporation with no
37 voting members, control of one hundred per cent of the board of
38 directors of such corporation; (iii) whether a controlling interest in a
39 business entity is owned shall be determined in accordance with
40 Section 267 of the Internal Revenue Code of 1986, or any subsequent
41 corresponding internal revenue code of the United States, as from time
42 to time amended, provided where a controlling interest is owned in a
43 business entity other than a stock corporation, the term "stock" as used
44 in said Section 267 of the Internal Revenue Code means, in the case of a
45 partnership, limited partnership, limited liability partnership or
46 limited liability company treated as a partnership for federal income
47 tax purposes, the profits interest or capital interest in such partnership,

48 in the case of a business entity that is a trust or estate, the beneficial
49 interests in such trust or estate, and in the case of a business entity that
50 is a nonstock corporation, the voting membership interests in such
51 corporation, or if it has no voting members, the control of the board of
52 directors; (iv) a business entity has "control of" the board of directors of
53 a nonstock corporation if one hundred per cent of the voting members
54 of the board of directors are either representatives of, including ex-
55 officio directors, or persons appointed by such business entity, or
56 "control of" one hundred per cent of the voting membership interests
57 in a nonstock corporation if one hundred per cent of the voting
58 membership interests are held by the business entity or by
59 representatives of, including ex-officio members, or persons appointed
60 by such business entity.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2016	12-412(62)
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FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Revenue Serv., Dept.	GF - Revenue Loss	670,000	840,000
Resources of the Transportation Fund	TF - Revenue Loss	44,000	79,000
Policy & Mgmt., Off.	MRSA - Revenue Loss	37,000	79,000

Note: GF=General Fund; TF=Transportation Fund; MRSA=Municipal Revenue Sharing Account

Municipal Impact: None

Explanation

The bill results in a revenue loss of \$750,000 in FY 17 and \$1 million annually thereafter by expanding the exemption from the sales and use tax for services rendered between parent companies and wholly owned subsidiaries to include services rendered between parent companies and subsidiaries where the controlling interest in such subsidiary is more than eighty per cent.

The bill would specifically result in a revenue loss of: (1) \$670,000 in FY 17 and \$840,000 annually thereafter to the General Fund; (2) \$44,000 in FY 17 and \$79,000 annually thereafter to the Special Transportation Fund and; (3) \$37,000 in FY 17 and \$79,000 annually thereafter to the Municipal Revenue Sharing Account.¹

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ PA 15-244, as amended by PA 15-5 JSS and PA 15-1 DSS, requires a monthly transfer of a portion of the sales tax generated into the Municipal Revenue Sharing Account and the Special Transportation Fund. The general sales and use tax rate, from which the diversion occurs, remains at 6.35%.

OLR Bill Analysis**sHB 5494*****AN ACT CONCERNING THE SALES TAX ON SERVICES RENDERED BETWEEN CERTAIN PARENT COMPANIES AND SUBSIDIARIES.*****SUMMARY:**

Under current law, sales of services between affiliated businesses are generally exempt from the state's sales and use tax when (1) one business owns a 100% controlling interest in the other or (2) the same parent company owns a 100% controlling interest in both. The bill expands the number of affiliated businesses qualifying for the exemption by lowering the ownership threshold from 100% to at least 80% for certain types of business entities. The lower threshold applies to businesses organized as corporations, partnerships, limited partnerships, limited liability partnerships, and limited liability companies (LLCs) with more than one member. The 100% threshold continues to apply to businesses organized as trusts, estates, sole proprietorships, single member LLCs, and nonstock corporations.

By lowering the ownership threshold for affiliated businesses, the bill also expands the number of affiliated businesses that may not purchase taxable services on resale (i.e., exempt from sales and use tax because the purchaser intends to transfer the service as an integral, inseparable component of another taxable service to a final consumer). By law, affiliated businesses are barred from purchasing taxable services under the resale exemption when the services are purchased for resale to an affiliate.

EFFECTIVE DATE: October 1, 2016

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 43 Nay 1 (03/24/2016)